

## **ORDINANCE NO. 1198**

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO ADD CHAPTER 1302, SECTIONS 1302.01 – 1302.11. TO THE LANSING CODIFIED ORDINANCES BY PROVIDING REGULATIONS AND PERMITTING AND PLACEMENT REQUIREMENTS FOR COLLECTION BINS.

THE CITY OF LANSING ORDAINS:

Section 1. THAT CHAPTER 1302 AND SECTIONS 1302.01-1302.11 OF THE CODIFIED ORDINANCES OF THE CITY OF LANSING, MICHIGAN, BE AND IS HEREBY ADDED TO READ AS FOLLOWS:

### **1302.01. PURPOSE.**

THE PURPOSE OF THIS SECTION IS TO REGULATE COLLECTION BINS IN THE CITY OF LANSING SO THAT THEY REMAIN CLEAN, SAFE AND DO NOT CREATE HAZARDS TO PEDESTRIANS OR TO VEHICULAR TRAFFIC.

### **1302.02. DEFINITIONS.**

AS USED IN SECTIONS 1302.01 TO 1302.11 UNLESS OTHERWISE PROVIDED:

**COLLECTION BIN** MEANS ANY CONTAINER, RECEPTACLE, OR SIMILAR DEVICE THAT IS LOCATED ON ANY PARCEL OR LOT OF RECORD WITHIN THE CITY AND THAT IS USED FOR SOLICITING AND COLLECTING THE RECEIPT OF CLOTHING, HOUSEHOLD ITEMS, OR OTHER SALVAGEABLE PERSONAL PROPERTY. THIS TERM DOES NOT INCLUDE RECYCLE BINS FOR THE COLLECTION OF RECYCLABLE MATERIAL, ANY RUBBISH OR GARBAGE RECEPTACLE.

**CODE COMPLIANCE OFFICE** MEANS THE CODE COMPLIANCE SUPERVISOR OR HIS OR HER AUTHORIZED REPRESENTATIVE.

**COLLECTION BIN OPERATOR** MEANS A PERSON WHO OWNS, OPERATES, SUPERVISES OR OTHERWISE IS IN CONTROL OF COLLECTION BINS TO SOLICIT COLLECTIONS OF SALVAGEABLE PERSONAL PROPERTY.

**PROPERTY OWNER** MEANS ANY PERSON, AGENT, FIRM OR CORPORATION HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY; OR RECORDED IN THE OFFICIAL RECORDS OF THE STATE, COUNTY OR MUNICIPALITY AS HOLDING TITLE TO THE PROPERTY.

**PUBLIC SERVICE DEPARTMENT** MEANS THE DIRECTOR OF PUBLIC SERVICE OR HIS OR HER AUTHORIZED REPRESENTATIVE.

**REAL PROPERTY** MEANS A LOT, PLOT OR PARCEL OF LAND RECORDED AND LOCATED IN THE CITY OF LANSING.

### **1302.03. PERMIT REQUIRED.**

NO PERSON OR ENTITY SHALL CAUSE OR PERMIT THE INSTALLATION OR PLACEMENT OF A COLLECTION BIN UPON ANY REAL PROPERTY LOCATED

WITHIN THE CITY OF LANSING, WHETHER PUBLIC OR PRIVATE, WITHOUT FIRST OBTAINING AN ANNUAL PERMIT FROM THE CITY CLERK.

#### **1302.04. PERMIT APPLICATION.**

(A) AN APPLICATION FOR A COLLECTION BIN PERMIT, AS REQUIRED BY SECTION 1302.03, SHALL BE MADE TO THE CITY CLERK UPON FORMS PROVIDED BY THE CITY. SUCH APPLICATION SHALL BE FILED WITH THE CITY CLERK NOT LESS THAN 30 DAYS PRIOR TO DATE THAT THE COLLECTION BIN IS PLACED ON REAL PROPERTY. ONE ANNUAL PERMIT IS REQUIRED FOR EACH COLLECTION BIN. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

(1) AN AFFIDAVIT AND ACKNOWLEDGMENT FROM THE PROPERTY OWNER, GIVING WRITTEN PERMISSION TO PLACE A COLLECTION BIN ON THE PROPERTY OWNER'S REAL PROPERTY, AS WELL AS AN ACKNOWLEDGMENT OF RECEIPT OF A COPY OF THIS CHAPTER, AND A SIGNED STATEMENT AGREEING TO OBEY ALL OF ITS REQUIREMENTS.

(2) A SITE PLAN INDICATING THE PLACEMENT OF THE COLLECTION BIN, IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1302.07.

(3) THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF THE APPLICANT, PROPERTY OWNER AND COLLECTION BIN OPERATOR.

(4) THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF THE AGENT OR PERSON WHO WILL BE AVAILABLE DURING REGULAR BUSINESS HOURS AND WILL BE RESPONSIBLE FOR COMPLIANCE.

(5) A PHOTOGRAPH OF THE COLLECTION BIN TO BE INSTALLED.

(6) THE NUMBER TO A TWENTY-FOUR (24) HOUR HOTLINE FOR OVERFLOW EVENTS.

(7) A NONREFUNDABLE FEE DETERMINED BY RESOLUTION AS SET BY CITY COUNCIL.

(8) A COPY OF THE LICENSE AND REGISTRATION FROM THE STATE OF MICHIGAN UNDER THE MICHIGAN CONSUMER PROTECTION ACT AND THE CHARITABLE ORGANIZATIONS SOLICITATIONS ACT IF STATUTORILY REQUIRED.

(B) IN ORDER TO BRING EXISTING COLLECTION BINS INTO COMPLIANCE WITH THIS SECTION, COLLECTION BIN OPERATORS, OF EXISTING COLLECTION BINS, SHALL HAVE THIRTY (30) DAYS FROM THE ADOPTION OF THIS CHAPTER TO SUBMIT A PERMIT APPLICATION TO THE CITY CLERK.

#### **1302.05. PERMIT FORM, EFFECTIVE PERIODS AND RENEWAL.**

THE CITY CLERK SHALL ISSUE A PERMIT FOR COMPLIANT COLLECTION BINS THAT CONFORM TO THE FOLLOWING:

(1) A COLLECTION BIN PERMIT IS VALID FOR A ONE (1) YEAR PERIOD. THE RENEWAL APPLICATION MUST BE FILED NOT LATER THAN THIRTY (30) DAYS BEFORE THE CURRENT PERMIT EXPIRES.

(2) IF THE PERMIT EXPIRES AND THE PERMIT IS NOT RENEWED, THE COLLECTION BIN MUST BE REMOVED FROM THE REAL PROPERTY WITHIN A MAXIMUM OF TEN (10) DAYS AFTER EXPIRATION OF THE PERMIT.

**1302.06. PERMITTED LOCATIONS.**

(1) COLLECTION BINS ARE ALLOWED IN THE "E-2" LOCAL SHOPPING DISTRICT, "F" AND "F-1" COMMERCIAL DISTRICT, "G-2" WHOLESALE DISTRICT, "H" LIGHT INDUSTRIAL DISTRICT AND "I" HEAVY INDUSTRIAL DISTRICT.

(2) COLLECTION BINS SHALL NOT BE LOCATED WITHIN 1,000 FT. FROM ANOTHER COLLECTION BIN AS MEASURED ALONG A STRAIGHT LINE FROM ONE BOX TO THE OTHER.

**1302.07. STANDARDS FOR BIN AND SURROUNDING AREA.**

COLLECTION BINS SHALL CONFORM TO THE FOLLOWING STANDARDS:

(1) COLLECTION BINS SHALL BE MAINTAINED IN GOOD CONDITION AND APPEARANCE WITH NO STRUCTURAL DAMAGE, HOLES OR VISIBLE RUST AND SHALL BE FREE OF GRAFFITI.

(2) COLLECTION BINS ARE REQUIRED TO BE PLACED ON A PAVED OR CONCRETE SURFACE. COLLECTION BINS MUST BE LEVEL AND STABLE.

(3) COLLECTION BINS SHALL BE LOCKED AND BE EQUIPPED WITH A SECURE SAFETY CHUTE SO CONTENTS CANNOT BE ACCESSED BY ANYONE OTHER THAN THOSE RESPONSIBLE FOR THE RETRIEVAL OF THE CONTENTS.

(4) THE COLLECTION BINS SHALL BE EMPTIED WITH SUCH FREQUENCY AND REGULARITY AS TO ENSURE THAT IT DOES NOT OVERFLOW AND MATERIALS DO NOT ACCUMULATE OUTSIDE THE COLLECTION BIN.

(5) THE COLLECTION BIN OPERATOR AND PROPERTY OWNER SHALL MAINTAIN, OR CAUSE TO BE MAINTAINED, THE AREA SURROUNDING THE BINS FREE FROM ANY OVERFLOW COLLECTION ITEMS, FURNITURE, RUBBISH, DEBRIS, HAZARDOUS MATERIALS, AND NOXIOUS ODORS. TO EXTENT PROVIDED BY LAW, THE COLLECTION BIN OPERATOR AND/OR PROPERTY OWNER SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE CITY'S COST TO ABATE ANY NUISANCE.

(6) COLLECTION BINS SHALL BE LOCATED ON A PARCEL WHERE THERE IS A FUNCTIONING AND PERMITTED USE. COLLECTION BINS SHALL NOT BE PERMITTED:

(A) ON ANY LAND USED OR ZONED RESIDENTIAL;

(B) ON ANY UNIMPROVED PARCEL;

(C) WHERE THE PRINCIPAL USE OF THE LAND HAS BEEN CLOSED OR UNOCCUPIED FOR MORE THAN THIRTY (30) DAYS.

(7) ONE (1) COLLECTION BIN ON A SINGLE LOT OF RECORD IS ALLOWED.

(8) THE TOTAL SIZE OF A COLLECTION BIN IS LIMITED TO A MAXIMUM DIMENSION OF 5X5X7.

(9) COLLECTION BINS SHALL NOT CAUSE A VISUAL OBSTRUCTION, AS DETERMINED BY THE TRANSPORTATION ENGINEER, CITY ENGINEER OR DIRECTOR OF PUBLIC SERVICE DEPARTMENT, TO VEHICULAR OR PEDESTRIAN TRAFFIC.

(10) NO COLLECTION BIN SHALL BE PLACED CLOSER THAN TEN FEET FROM:

(I) A PUBLIC OR PRIVATE SIDEWALK EXCEPT THAT THIS PROVISION DOES NOT APPLY TO A PRIVATE SIDEWALK AS LONG AS THE PRIVATE SIDEWALK MAINTAINS A FIVE-FOOT CLEARANCE;

(II) A PUBLIC RIGHT-OF-WAY;

(III) A DRIVEWAY; OR

(IV) A SIDE OR REAR PROPERTY LINE OF ADJACENT PROPERTY USED FOR RESIDENTIAL PURPOSES.

(11) COLLECTION BINS SHALL NOT BE PLACED IN A DESIGNATED FIRE LANE, IN OR ADJACENT TO A HANDICAP PARKING SPACE, OR BLOCK A BUILDING ENTRANCE OR EXIT.

(12) COLLECTION BINS SHALL BE MADE OF DURABLE METAL OR UV RESISTANT MOLDED HARD PLASTIC OR FIBERGLASS MATERIAL THAT IS FIRE RESISTANT OR FIRE PROOF.

#### **1302.08. IDENTIFICATION OF COLLECTION BINS.**

(A) COLLECTION BINS SHALL HAVE SIGNAGE ON EACH BIN THAT IDENTIFIES THE NAME, MAILING ADDRESS, EMAIL ADDRESS, WEBSITE AND PHONE NUMBER OF THE COLLECTION BIN OPERATOR. THE COLLECTION BIN SIGNAGE MAY INCLUDE A COMPANY LOGO. TOTAL SIGN AREA ON THE COLLECTION BIN SIGNAGE MAY NOT EXCEED 6 SQUARE FEET PER SIDE. THE FONT SIZE USED ON THE SIGN SHALL NOT BE LESS THAN 1 INCH IN HEIGHT.

(B) THE COLLECTION BIN MUST PROMINENTLY DISPLAY AT ALL TIMES A READABLE PERMIT IDENTIFICATION STICKER PROVIDED BY THE CITY.

#### **1302.09. PERMIT REVOCATION, REMOVAL OF COLLECTION BINS AND LIABILITY.**

(A) IF THE PUBLIC SERVICE DEPARTMENT AND/OR CODE COMPLIANCE OFFICE DETERMINES THAT A COLLECTION BIN HAS BEEN PLACED OR IS BEING MAINTAINED IN VIOLATION OF THIS CHAPTER, A CORRECTION NOTICE SHALL BE SENT BY REGULAR UNITED STATES MAIL TO THE COLLECTION BIN OPERATOR AND PROPERTY OWNER OF THE REAL PROPERTY ON WHICH THE COLLECTION BIN HAS BEEN PLACED, AS SHOWN ON THE MOST RECENT PERMIT APPLICATION. IN THE EVENT THERE IS NOT ON FILE A PERMIT APPLICATION MADE FOR THE COLLECTION BIN WITHIN 24 MONTHS IMMEDIATELY PRECEDING THE DATE OF VIOLATION, THE CORRECTION NOTICE SHALL BE SENT TO THE REAL PROPERTY TAX PAYER OF RECORD IN THE ASSESSOR'S OFFICE. THE CORRECTION NOTICE SHALL DESCRIBE THE OFFENDING CONDITION AND THE ACTIONS NECESSARY TO CORRECT THE CONDITION. THE CORRECTION NOTICE SHALL PROVIDE THAT THE OFFENDING

CONDITION BE CORRECTED OR ABATED WITHIN SEVEN (7) CALENDAR DAYS AFTER MAILING.

(B) IF THE OFFENDING CONDITION IS NOT CORRECTED OR ABATED WITHIN THIS SEVEN (7) CALENDAR DAYS AFTER MAILING, THE CITY OR THE CITY'S CONTRACTOR SHALL CLEAN-UP THE COLLECTION BIN AREA.

(C) ALL COSTS INCURRED BY THE CITY OR THE CITY'S CONTRACTOR ASSOCIATED WITH THE CORRECTION OR ABATEMENT OF A COLLECTION BIN SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER AND COLLECTION BIN OWNER. IF SUCH OBLIGATION IS NOT PAID WITHIN THIRTY (30) DAYS AFTER MAILING OF A BILLING OF COSTS TO THE PROPERTY OWNER, THE CITY MAY PLACE A LIEN UPON SUCH REAL PROPERTY ENFORCEABLE AS A TAX LIEN IN THE MANNER PRESCRIBED BY THE GENERAL LAWS OF THIS STATE AGAINST THE PROPERTY AND COLLECTED AS IN THE CASE OF GENERAL PROPERTY TAX. IF THE SAME IS NOT PAID PRIOR TO THE PREPARATION OF THE NEXT ASSESSMENT ROLL OF THE CITY, THE AMOUNT SHALL BE ASSESSED AS A SPECIAL TAX AGAINST SUCH PREMISES ON THE NEXT ASSESSMENT ROLL AND COLLECTED THEREUNDER.

(D) THE CITY CLERK SHALL HAVE THE RIGHT TO REVOKE ANY PERMIT ISSUED HEREUNDER IF:

- (1) OFFENDING CONDITIONS CITED IN A CORRECTION NOTICE ARE NOT CORRECTED OR ABATED WITHIN SEVEN (7) DAYS AFTER MAILING,
- (2) PLACEMENT OR CONDITIONS OF THE BIN OR SURROUNDING AREA VIOLATE ANY APPLICABLE STATE OR FEDERAL LAW,
- (3) ANY GOVERNMENTAL AUTHORITY OR AGENCY DETERMINES THAT THE COLLECTION BIN HAS VIOLATED THE MICHIGAN CONSUMER PROTECTION ACT AND/OR THE CHARITABLE ORGANIZATIONS AND SOLICITATIONS ACT OR OTHER STATUTE ENACTED TO REGULATE OR GOVERN COLLECTION BINS.

(E) UPON REVOCATION OF PERMIT ISSUED PURSUANT TO THIS CHAPTER, THE COLLECTION BIN SHALL BE REMOVED FROM THE REAL PROPERTY WITHIN TEN (10) CALENDAR DAYS AND, IF NOT SO REMOVED WITHIN THE TIME PERIOD, THE CITY OR THE CITY'S CONTRACTOR MAY REMOVE, STORE OR DISPOSE OF THE COLLECTION BIN.

(F) ALL COSTS INCURRED BY THE CITY OR THE CITY'S CONTRACTOR ASSOCIATED WITH REMOVAL, STORAGE OR DISPOSAL OF A COLLECTION BIN SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER AND COLLECTION BIN OWNER. IF SUCH OBLIGATION IS NOT PAID WITHIN THIRTY (30) DAYS AFTER MAILING OF A BILLING OF COSTS TO THE PROPERTY OWNER, THE CITY MAY PLACE A LIEN UPON SUCH REAL PROPERTY ENFORCEABLE AS A TAX LIEN IN THE MANNER PRESCRIBED BY THE GENERAL LAWS OF THIS STATE AGAINST THE PROPERTY AND COLLECTED AS IN THE CASE OF GENERAL PROPERTY TAX. IF THE SAME IS NOT PAID PRIOR TO THE PREPARATION OF THE NEXT ASSESSMENT ROLL OF THE CITY, THE AMOUNT SHALL BE ASSESSED AS A SPECIAL TAX AGAINST SUCH PREMISES ON THE NEXT ASSESSMENT ROLL AND COLLECTED THEREUNDER.

(G) IF A COLLECTION BIN PERMIT IS REVOKED, THE COLLECTION BIN OPERATOR SHALL NOT BE ELIGIBLE FOR A NEW PERMIT FOR ONE YEAR FROM THE DATE OF REVOCATION.

**1302.10. APPEAL TO CITY COUNCIL.**

ANY PERSON AGGRIEVED BY THE DECISION RENDERED BY THE CITY CLERK IN GRANTING OR DENYING AN APPLICATION FOR A PERMIT UNDER THIS ARTICLE OR IN REVOKING A PERMIT ISSUED UNDER THIS ARTICLE MAY APPEAL THAT DECISION TO THE CITY COUNCIL. THE PUBLIC SERVICE DEPARTMENT SHALL MAKE WRITTEN FINDINGS OF FACT IN SUPPORT OF ANY LICENSE REVOCATION. THE APPEAL SHALL BE MADE BY FILING A WRITTEN REQUEST WITH THE CITY CLERK SETTING FORTH THE GROUNDS FOR THE APPEAL NOT LATER THAN TEN (10) DAYS AFTER RECEIVING NOTICE OF THE REVOCATION BY THE CITY CLERK. IN THE EVENT THAT THE WRITTEN REQUEST IS FILED WITH THE CITY CLERK, COUNCIL SHALL HOLD A PUBLIC HEARING ON THE REVOCATION, AND SHALL HAVE THE POWER TO REVERSE, AFFIRM OR MODIFY THE DECISION OF THE CITY CLERK. COUNCIL SHALL, IN ITS DETERMINATION, MAKE WRITTEN FINDINGS OF FACT SUPPORTING ITS DECISION. THE DETERMINATION BY COUNCIL SHALL BE FINAL, SUBJECT TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

**1302.11. PENALTY AND REMEDIES**

(A) IN ADDITION TO REVOCATION OF PERMIT PURSUANT TO SECTION 1302.09, ANY PERSON VIOLATING THE PROVISIONS OF THIS ARTICLE IS GUILTY OF A MUNICIPAL CIVIL INFRACTION.

(B) IN ADDITION TO THE PENALTY PROVIDED IN SUBSECTION (A) OF THIS SECTION, ANY CONDITION CAUSED OR PERMITTED TO EXIST IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER, OR ANY ORDINANCE, SHALL BE DEEMED A NEW AND SEPARATE OFFENSE FOR EACH DAY THAT SUCH CONDITION CONTINUES TO EXIST.

(C) IN ADDITION TO THE PENALTY PROVIDED IN SUBSECTION (A) OF THIS SECTION, ANY CONDITION CAUSED OR PERMITTED TO EXIST IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER, OR ANY ORDINANCE, SHALL BE DEEMED A NEW AND SEPARATE OFFENSE FOR EACH DAY THAT SUCH CONDITION CONTINUES TO EXIST.

(D) NOTHING IN THIS CHAPTER SHALL PREVENT THE CITY FROM PURSUING ANY OTHER REMEDY PROVIDED BY LAW IN CONJUNCTION WITH OR IN LIEU OF PROSECUTING PERSONS UNDER THIS SECTION FOR VIOLATION OF THIS CHAPTER.

(E) THE COLLECTION BIN OPERATOR AND REAL PROPERTY OWNER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR EACH VIOLATION AND FOR PAYMENT OF ANY FINES AND COSTS.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council.